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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09 664,465	09 18 2000	Michael Greiner	P00.1757	4315

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EXAMINER

YEUNG, GEORGE CHAN PUI

ART UNIT

PAPER NUMBER

1761

DATE MAILED: 12 02 2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/664,465

Applicant(s)

Greiner et al

Examiner

George C. Young

Group Art Unit

1761

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- ☒ Responsive to communication(s) filed on July 5, 2002
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 31-58 ~~is/are~~ pending in the application.
- Of the above claim(s) 53-58 ~~is/are~~ withdrawn from consideration as a non-elected invention
- ☐ Claim(s) 31-52 is/are allowed.
- ☒ Claim(s) 31-52 ~~is/are~~ rejected.
- ☐ Claim(s) is/are objected to.
- ☐ Claim(s) are subject to restriction or election requirement

## Application Papers

- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some\* ☐ None of the:
  - ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
  - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☒ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

Office Action Summary

### DETAILED ACTION

At the outset, it is pointed out that the newly presented apparatus claims 53-58 are directed to a non-elected invention. See Paper No. 7 filed January 28, 2002. The restriction requirement was made Final in Paper No. 8 mailed May 13, 2002.

Accordingly, the new apparatus claims 53-58 are withdrawn from consideration as being directed to a non-elected invention.

Claims 31-52 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention for the following reasons:

1. The controlling step recited in claim 1, lines 3-6 is confusing and indefinite since it is not clear how the at least one temperature value outside the food being cooked can be picked up by a cooking process sensor stuck into the food during the cooking process. It appears that the at least one temperature value outside the food being cooked can only be picked up by another sensor placed outside the food during the cooking process (see sensor "46" shown in the amended Figure 2). Accordingly, claim 31 must be clearly and distinctly pointed out that the at least one temperature value outside the food being cooked is picked up by another sensor placed outside the food being cooked.
2. The phrase "at least one parameter" recited in claim 31, line 7 is indefinite since this phrase has not been sufficiently defined.

3. The utilizing step recited in claim 31, lines 10-11 is indefinite since claim 31 fails to set forth the method step necessary to utilize the at least one determined parameter for controlling the cooking process.
4. There is no antecedent basis for "at least one of the food" recited in claim 31, line 7.
5. Regarding claim 40, it is not clear how the diameter of the food being cooked, the type of food being cooked, the degree of ripeness of the food being cooked, the storage condition of the food being cooked, the smell of the food being cooked, the taste of the food being cooked, the quality of the food being cooked, the vitamin decomposition of the food being cooked, the formation of carcinogenic substance in the food being cooked, and the hygiene of the food being cooked can be determined as at least one parameter of the food being cooked via temperature variations over time of the temperature values.
6. The limitations "batch" and specific performance" recited in claim 44, lines 3 are indefinite.
7. There is no antecedent basis for " the path of the cooking process" recited in claim 48. Moreover, it is not clear what is intended by "the path of the cooking process".
8. It is not clear what is intended by "a set cooking result" as recited in claim 49.

Applicants argue that the hygiene of food, the quality of food as well as the storage condition of food all depend on the core temperature, and a threshold value for the core temperature defines a completely cooked food which does not contain any bacteria and the like. However, in the absence of definition in the present specification, the ordinary meaning of hygiene is a science of health or a condition of cleanliness as taken from any dictionary. Webster's Collegiate Dictionary, Tenth Edition, defines hygiene as "a science of the establishment and maintenance of health" and "conditions or practices (as of cleanliness) conducive to health". Nowhere is there a definition that calls for applicants' assertion that it means "it does not contain any bacteria," i.e., free of bacteria. Moreover, applicants have not clarified how "storage condition of the food being cooked" and "quality of the food being cooked" are related to the measured core temperature. The claimed invention is directed to a cooking process and not to storage condition or food quality.

Applicants' allegation that "[t]he set cooking result in claim 49 and the 'path of the cooking process' in claim 48 describe a special cooking process selected from a plurality of cooking processes in dependence on certain parameters to obtain a desired cooking result" is circular logic that does not answer why the cooking process path is definite. What is a desired cooking result?

Claims 31-52 are free of the prior art.

Claims 31-52 would be allowable if rewritten or amended to overcome the rejections under 35 U.S.C. 112, second paragraph, set forth in this Office action.

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Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

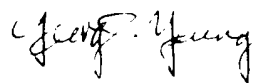
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George Yeung whose telephone number is (703) 308-3848. The examiner can normally be reached on Monday-Friday from 10:30 AM to 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (703) 308-3959. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

G. Yeung/mn  
November 27, 2002

  
**GEORGE C. YEUNG**  
**PRIMARY EXAMINER**